Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	Liu	Analyst:	Roger Lackey	Bill Number:	AB 1885
Related Bills:	None	Telephone:	845-3627	Introduced Date:	02-05-2002
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Continued Group Healthcare Coverage Credit

SUMMARY

This bill would allow a credit for taxpayers electing to continue group health plan coverage under COBRA.

PURPOSE OF THE BILL

The author's office has indicated that the purpose of the bill is to subsidize the cost of healthcare coverage for employees and their families that become unemployed.

EFFECTIVE/OPERATIVE DATE

As a tax levy, this bill would become effective upon enactment and would apply to taxable years beginning on or after January 1, 2002, and before January 1, 2006.

POSITION

Pending.

ANALYSIS

FEDERAL/STATE LAW

Congress passed the Consolidated Omnibus Budget Reconciliation Act (COBRA) health benefit provisions in 1986. The law amended the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code, and the Public Health Service Act to provide continuation of group health coverage that otherwise would be terminated.

COBRA contains provisions giving certain former employees, retirees, spouses, and dependent children the right to temporary continuation of health coverage at group rates. This coverage is only available in specific instances.

Federal law generally covers group health plans maintained by employers with 20 or more employees in the prior year. It applies to plans in the private sector and those sponsored by state and local governments. The law does not apply to plans sponsored by the Federal government and certain church-related organizations.

Board Position:			Department Director	Date
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Generally any individual covered by a group health plan on the day before a qualifying event is eligible for COBRA. Under COBRA, an individual may be an employee, the employee's spouse and dependent children, and in certain cases, a retired employee, the retired employee's spouse, and dependent children. The term "employee" includes any full-time and part-time employees, as well as self-employed individuals. For this purpose, the term employee also includes agents, independent contractors, and directors, but only if they are eligible to participate in a group health plan.

"Qualifying events" are certain types of events that would cause, except for COBRA continuation coverage, an individual to lose health coverage. The type of qualifying event will determine who will receive coverage and the required amount of time that a plan must offer the health coverage to them under COBRA. The types of qualifying events for employees are:

- Voluntary or involuntary termination of employment for reasons other than "gross misconduct," and
- Reduction in the number of hours of employment.

The types of qualifying events for spouses are:

- Termination of the covered employee's employment for any reason other than "gross misconduct,"
- Reduction in the hours worked by the covered employee,
- Covered employee's becoming entitled to Medicare,
- Divorce or legal separation of the covered employee, or
- Death of the covered employee.

The types of qualifying events for dependent children (except divorce and legal separation) are the same as for the spouse with one addition loss of "dependent child" status under the plan rules.

If an employer's health plan covers an employee's domestic partner, the right to temporary continuation of health coverage at group rates should be available to the domestic partner under COBRA. However, each employer health plan is different.

Under federal and state law no credit exists that would compensate a taxpayer for the expenses paid for COBRA health coverage.

<u>THIS BILL</u>

This bill would allow a credit equal to the amount paid or incurred for continued coverage pursuant to COBRA, including those amounts paid for coverage for the taxpayer's spouse or domestic partner, and dependent children.

This bill would define "qualified taxpayer" to mean an individual who was employed in California, who was either terminated or had work hours reduced resulting in the loss of employer group health plan coverage, and who elected continued health care coverage pursuant to COBRA.

This bill would limit the credit to the first 18 months of coverage, which parallels the duration of coverage under COBRA for terminated and reduced work hour taxpayers.

This bill would allow the credit to be claimed for 2002 through 2005 and limit the credit carryover period to eight years.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not significantly impact the department's programs and operations.

OTHER STATES' INFORMATION

Illinois, Massachusetts, Michigan, Minnesota, and *New York* laws do not provide a credit comparable to the credit allowed by this bill. The laws of these states were reviewed because their tax laws are similar to California's income tax laws.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of this measure, under the assumptions discussed below, is estimated to be as follows in applied credits:

Revenue Impact of AB 1885 Tax Years Beginning 1/1/2002 through 1/1/2005 Enactment Assumed After 6/30/2002 **(In Millions)**			
	2002-3	2003-4	2004-5
Revenue Impact	($75)	($85)	($100)

This analysis does not account for changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

The revenue impact of this proposal was determined as follows. The number of employees working for firms with 20 or more employees (COBRA 1986 requirement) was obtained from data provided by the Employment Development Department. Of these, the numbers who lost their jobs or whose hours were reduced were identified from the same source. Some employees lose their jobs or their hours are reduced only for part of the year. The numbers of these employees were converted into a full-year equivalent basis using data on the percentage of year they remain unemployed or their hours are reduced. This resulted in 88,000 workers on a full-year equivalent basis who previously had health coverage through employment.

It was assumed that of those who lose their health coverage, 15% of the first group (laid off) and 40% of the second would continue their group insurance. This resulted in a total of 20,500 full-year equivalent employees potentially qualifying for the credit in the first year. The percentages of the qualified taxpayers purchasing different types of plans, as well as the annual costs of these plans, were identified using available industry sources. It was assumed that unused credits would be carried forward until 2006.

Since this is a 100% tax credit for those with sufficient tax liabilities for the year (due to other income and/or income of spouse), this bill does provide a significant incentive for some individuals to incur health coverage payments rather than state income tax payments.

ARGUMENTS/POLICY CONCERNS

This bill would allow a credit equal to 100% of the cost associated with the credit. A 100% credit is unprecedented.

LEGISLATIVE STAFF CONTACT

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